

REFERENCE TITLE: state permits; approval by default

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1470

Introduced by
Senator Martin

AN ACT

AMENDING SECTIONS 37-132 AND 49-111, ARIZONA REVISED STATUTES; RELATING TO STATE PERMIT APPROVALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 37-132, Arizona Revised Statutes, is amended to
3 read:

4 37-132. Powers and duties

5 A. The commissioner shall:

6 1. Exercise and perform all powers and duties vested in or imposed
7 upon the department, and prescribe such rules as are necessary to discharge
8 those duties.

9 2. Exercise the powers of surveyor-general except for the powers of
10 the surveyor-general exercised by the treasurer as a member of the selection
11 board pursuant to section 37-202.

12 3. Make long-range plans for the future use of state lands in
13 cooperation with other state agencies, local planning authorities and
14 political subdivisions.

15 4. Promote the infill and orderly development of state lands in areas
16 beneficial to the trust and prevent urban sprawl or leapfrog development on
17 state lands.

18 5. Classify and appraise all state lands, together with the
19 improvements on state lands, for the purpose of sale, lease or grant of
20 rights-of-way. The commissioner may impose such conditions and covenants and
21 make such reservations in the sale of state lands as the commissioner deems
22 to be in the best interest of the state trust. The provisions of this
23 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,
24 article 10 and, except as provided in section 41-1092.08, subsection H, are
25 subject to judicial review pursuant to title 12, chapter 7, article 6.

26 6. Have authority to lease for grazing, agricultural, homesite or
27 other purposes, except commercial, all land owned or held in trust by the
28 state.

29 7. Have authority to lease for commercial purposes and sell all land
30 owned or held in trust by the state, but any such lease for commercial
31 purposes or any such sale shall first be approved by the board of appeals.

32 8. Except as otherwise provided, determine all disputes, grievances or
33 other questions pertaining to the administration of state lands.

34 9. Appoint deputies and other assistants and employees necessary to
35 perform the duties of the department, assign their duties, and require of
36 them such surety bonds as the commissioner deems proper. The compensation of
37 the deputy, assistants or employees shall be as determined pursuant to
38 section 38-611.

39 10. Make a written report to the governor annually, not later than
40 September 1, disclosing in detail the activities of the department for the
41 preceding fiscal year, and publish it for distribution. The report shall
42 include an evaluation of auctions of state land leases held during the
43 preceding fiscal year considering the advantages and disadvantages to the
44 state trust of the existence and exercise of preferred rights to lease
45 reclassified state land.

1 11. Withdraw state land from surface or subsurface sales or lease
2 applications if the commissioner deems it to be in the best interest of the
3 trust. This closure of state lands to new applications for sale or lease
4 does not affect the rights which existing lessees have under law for renewal
5 of their leases and reimbursement for improvements.

6 B. The commissioner may:

7 1. Take evidence relating to, and may require of the various county
8 officers information on, any matter that the commissioner has the power
9 to investigate or determine.

10 2. Under such rules as the commissioner adopts, use private real
11 estate brokers to assist in any sale or long-term lease of state land and
12 pay, from fees collected under section 37-108, subsection A, paragraph 10,
13 subdivision (a), a commission to a broker that is licensed pursuant to title
14 32, chapter 20 and that provides the purchaser or lessee at auction. The
15 purchaser or lessee at auction is not eligible to receive a commission
16 pursuant to this subsection. A commission shall not be paid on a sale or a
17 long-term lease if the purchaser or lessee is another governmental agency.

18 3. Require a permittee, lessee or grantee to post a surety bond or any
19 form of collateral deemed sufficient by the commissioner for performance or
20 restoration purposes. The commissioner shall use the proceeds of a bond or
21 collateral only for the purposes determined at the time the bond or
22 collateral is posted. For agricultural lessees, the commissioner may require
23 collateral as follows:

24 (a) As security for payment of the annual assessments levied by the
25 irrigation district in which the state land is located if the lessee has a
26 history of late payments or defaults. The amount of the collateral required
27 shall not exceed the annual assessment levied by the irrigation district.

28 (b) As security for payment of rent, if an extension of time for
29 payment is requested or if the lessee has a history of late payments of rent.
30 The collateral shall be submitted at the time any extension of time for
31 payment is requested. The amount of the collateral required shall not exceed
32 the annual amount of rent for the land.

33 (c) A surety bond shall be required only if the commissioner
34 determines that other forms of collateral are insufficient.

35 4. Withhold market and economic analyses, preliminary engineering,
36 site and area studies and appraisals that are collected during the urban
37 planning process from public viewing before they are submitted to local
38 planning and zoning authorities.

39 5. Withhold from public inspection proprietary information received
40 during lease negotiations. The proprietary information shall be released to
41 public inspection unless the release may harm the competitive position of the
42 applicant and the information could not have been obtained by other
43 legitimate means.

44 6. Issue permits for short-term use of state land for specific
45 purposes, OR FOR THE USE OF PRODUCTS OR RESOURCES FROM STATE LAND, as

1 prescribed by rule. UNLESS OTHERWISE PROVIDED BY LAW, IF THE COMMISSIONER
2 FAILS TO APPROVE OR DISAPPROVE AN APPLICATION FOR A PERMIT WITHIN TWELVE
3 MONTHS AFTER THE APPLICATION IS FILED WITH THE DEPARTMENT, THE APPLICATION IS
4 CONSIDERED TO BE APPROVED.

5 7. Contract with a third party to sell recreational permits. A third
6 party under contract pursuant to this paragraph may assess a surcharge for
7 its services as provided in the contract, in addition to the fees prescribed
8 by section 37-108.

9 8. Close urban lands to specific uses as prescribed by rule if
10 necessary for dust abatement, to reduce a risk from hazardous environmental
11 conditions that pose a risk to human health or safety or for remediation
12 purposes.

13 9. Notwithstanding subsection A, paragraph 4 of this section,
14 authorize, in the best interest of the trust, the extension of public
15 services and facilities either:

16 (a) That are necessary to implement plans of the local governing body,
17 including plans adopted or amended pursuant to section 9-461.06 or 11-824.

18 (b) Across state lands that are either:

19 (i) Classified as suitable for conservation pursuant to section
20 37-312.

21 (ii) Sold or leased at auction for conservation purposes.

22 C. The commissioner or any deputy or employee of the department shall
23 not have, own or acquire, directly or indirectly, any state lands or the
24 products on any state lands, any interest in or to such lands or products, or
25 improvements on leased state lands, or be interested in any state irrigation
26 project affecting state lands.

27 Sec. 2. Section 49-111, Arizona Revised Statutes, is amended to read:

28 49-111. Application for permits or plan approval: notice to
29 counties, cities or towns: permit approval by default

30 A. For any application for a permit or plan approval, substantial
31 change to a plan or significant revision or modification to a permit
32 requested pursuant to this title, the director shall notify the appropriate
33 county, city or town by sending a copy or notice of the application or change
34 describing the purpose and scope of the proposed activity. The director
35 shall not release any confidential information or trade secrets in the copy
36 or notice.

37 B. UNLESS OTHERWISE PROVIDED BY LAW, IF THE DIRECTOR FAILS TO APPROVE
38 OR DISAPPROVE AN APPLICATION FOR A PERMIT WITHIN TWELVE MONTHS AFTER THE
39 APPLICATION IS FILED WITH THE DEPARTMENT, THE APPLICATION IS CONSIDERED TO BE
40 APPROVED.